IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14432 of 2004

Between:

Divisional Engineer (Operation), APSPDCL,

Puttur, Chittoor District.

..... PETITIONER

AND

1 Assistant Provident Fund Commissioner, Sub-Regional Office, 1/30, R.S. Road, Cuddapah-516 004.
2 State Bank of India, Puttur Branch, Chittoor District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or Direction or a Writ more particularly one in the nature of WRIT OF MANDAMUS restraining the first respondent in giving effect to his proceedings No. AP/CP/43256/ENF/CTR/SRO/CDP/2004/4172 dt. 31-03-2004 and consequential prohibitory orders issued to the second respondent vide proceeding No. AP/43256/ENF/CTR/SRO/SRO/2004/492 dt. 12-07-2004 to freeze the Bank Account.

Counsel for the Petitioner:MR.S.RAVINDRANATH

Counsel for the Respondent No.1: MR.R.N.REDDY

Counsel for the Respondent No.2: MR. E.MADAN MOHAN RAO

The Court at the stage of admission made the following ORDER:

This writ petition is filed by the petitioner seeking a writ of mandamus restraining the first respondent in giving effect to the proceedings No.AP/CP/43256/ENF/CTR/SRO/CDP/2004/4172, dated 31-03-2004 as well as the consequential prohibitory orders issued vide proceedings No.AP/43256/ENF/CTR/SRO/2004/492, dated 12-07-2004.

Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the 1st respondent.

The learned counsel for the petitioner submits that the issue involved in this writ petition is squarely covered by the decision of the Supreme Court in **FOOD CORPORATION OF INDIA v. PROVIDENT FUND COMMISSIONER**, wherein, it was held that without summoning and examining the Contractor, who engaged the employees, so as to determine the liability of the petitioner, the Corporation cannot fix up the liability on the Principal Employer. He submits that in view of the ratio laid down in the said case, the impugned demand cannot be sustained. The learned Standing Counsel for the 1st respondent did not dispute the same.

Accordingly, following the ratio laid down by the Supreme Court in the above decision, the impugned order is set aside leaving it open to the first respondent to summon and examine the Contractors, who engaged the contract labour, and determine the liability of the petitioner, if any, after due notice to both the parties.

The writ petition is accordingly allowed. No costs.

16th AUGUST, 2004.

Kvni

To

1 Assistant Provident Fund Commissioner, Sub-Regional Office, 1/30, R.S. Road, Cuddapah-516 004.

2 Two CD copies.